

Appl. No. 10/035,093
Amdt. dated 09/08/2003
Reply to Office Action of 05/07/2003

REMARKS/ARGUMENTS

Claims 1-2 and 7-36 are presented for the Examiner's consideration. Claims 1-2 and 7-30 are drawn to an elastic laminate material while claims 31-36 are to process for forming elastic laminate material. No new claims have been added. Claims 3-6 have been canceled. Claims 1 and 31 have been amended. By the foregoing amendments, Applicants' claims have been amended to more particularly point out and distinctly claim the invention. Support for the amendments may be found in claims 3-6 as originally filed, for example.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants thank the Examiner for acknowledging receipt and consideration of Applicants' Information Disclosure Statement mailed March 21, 2002 (received by the U.S. Patent and Trademark Office March 26, 2002) by returning copies of the initialed Forms PTO-1449 with the Office Action mailed May 07, 2003.

By way of Paragraph 2 of the Office Action mailed May 07, 2003, the Examiner rejected claim 1 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over European Patent Number EP 0420256 A2 to Cohen et al. (hereinafter "Cohen et al."). This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

The invention as presently claimed in claim 1 comprises an elastic laminate material which comprises a thermoplastic elastic material and a first non-bonded staple fiber web layer bonded to the thermoplastic elastic material, wherein the thermoplastic elastic material comprises elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer. While not limited thereto, Cohen et al. discloses an increased pile density composite elastic material and a method of making a composite elastic material including the steps of applying a tensioning force to elongate at least one elastic sheet; attaching fibrous materials to the elastic sheet while the elastic sheet is maintained in an elongated condition so that the fibrous materials protrude from the elastic sheet to form a pile; and releasing the tensioning force so the attached fibrous materials are positioned closer together by the recovery of the elastic sheet. The fibrous materials may be in the form of an unbonded web or batt of fibers. However, and specifically, Cohen et al. does not appear to disclose a thermoplastic elastic material comprising elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer as is presently claimed.

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Because Cohen et al. fails to disclose each and every element of Applicants' claim as presented, Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. §102(b) in view of Cohen et al. should be withdrawn.

By way of Paragraph 3 of the Office Action mailed May 07, 2003, the Examiner rejected claims 1-4 under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. Patent Number 5,851,935 to Srinivasan et al. (hereinafter "Srinivasan et al.") or U.S. Patent Number 5,431,991 to Quantrille et al. (hereinafter "Quantrille et al."). This rejection is respectfully traversed to the extent that it may apply to the presently presented claims. Please note that claims 3 and 4 have been canceled and claim 1 amended.

The invention as presently claimed in claims 1-2 comprises an elastic laminate material which comprises a thermoplastic elastic material and a first non-bonded staple fiber web layer bonded to the thermoplastic elastic material, wherein the thermoplastic elastic material comprises elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer. Srinivasan et al. discloses a nonwoven fibrous web/elastic film laminate which is laminated in a bonding process which melts holes or apertures through the elastic film (see, e.g., Srinivasan et al. at claim 1, col. 3 lines 28-35, and col. 4 lines 62-67). Applicants point out to the Examiner that the Srinivasan et al. reference is at best not clear regarding use of non-bonded or un-bonded fibrous webs but does clearly state at col. 2 lines 51-56 that, "The present invention is a nonwoven-elastomeric film-nonwoven (A-B-A) laminate... The nonwoven webs are made from staple thermoplastic fibers which have been carded and thermal spot bonded." (emphasis added). The Quantrille et al. reference discloses a nonwoven/elastic laminate wherein the elastic is a netting having non-extensible machine direction strands and elastic cross-machine direction strands and the nonwoven fibrous web or webs are hydroentangled into the netting material. However, and specifically, neither Srinivasan et al. nor Quantrille et al. appear to disclose use of a thermoplastic elastic material comprising elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer as is presently claimed.

Because Srinivasan et al. and Quantrille et al. fail to disclose each and every element of Applicants' claims as presented, Applicants respectfully submit that the rejection of claims 1-2 under 35 U.S.C. §102(b) in view of Srinivasan et al. and Quantrille et al. should be withdrawn.

By way of Paragraph 5 of the Office Action mailed May 07, 2003, the Examiner rejected claims 1-36 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over either Srinivasan et al. or Quantrille et al.

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This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims. Please note that claims 3-6 have been canceled and claims 1 and 31 amended. As discussed above, while Srinivasan et al. and Quantrille et al. do disclose nonwoven-elastic laminate materials, neither reference discloses, teaches or suggests the elastic laminate material comprising a thermoplastic elastic material and a first non-bonded staple fiber web layer bonded to the thermoplastic elastic material, wherein the thermoplastic elastic material comprises elastic polyolefin or a blend of elastic polyolefin and styrenic block copolymer as is presently claimed in independent claim 1, nor the process for forming such an elastic laminate material as is presently claimed in independent claim 31.

Also by way of Paragraph 5 of the Office Action the Examiner pointed out that Quantrille et al. states that the netting used in the laminate is formed by extrusion, i.e. by extruding machine direction strands and then extruding onto these the cross machine direction strands (col. 5 lines 25-35), and may be formed in-line (col. 9 lines 5-10). This observation appears to be directed at independent claim 34, a process for forming elastic laminate material comprising the steps of forming a first non-bonded staple fiber web, extruding a thermoplastic elastic material, and then forming the laminate by bonding the fiber web layer to the thermoplastic elastic material while the elastic material remains in a partially molten state. However, Applicants submit that the Quantrille et al. reference does not disclose this process. The cited portions of the reference do indicate that the strands of the netting are made by extrusion but do not in any way teach or suggest that a fibrous web should or even could be bonded to the elastic material while the elastic material is still in a partially molten state. Rather, Quantrille et al. relies on hydroentangling and/or other subsequent optional bonding steps (please see col. 8 lines 22-34, heated calender bonding; col. 9 lines 14-21, solvent-based adhesives and/or thermal adhesives and/or needling).

Although claims 7-30, 32, 33, 35 and 36 were not specifically treated individually by the Examiner in the Office Action mailed May 07, 2003, the Examiner did reject all of claims 1-36 under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art over either Srinivasan et al. or Quantrille et al. Claims 7-30, 32, 33, 35 and 36 depend either directly or indirectly from independent claims 1, 31 and 34 and recite the present invention in varying scope. Applicants have herein discussed the cited references in relation to independent claims 1, 31 and 34. Claims 7-30, 32, 33, 35 and 36 are similarly distinguishable not only because of the patentability of the independent claims but also because of the combination of the subject matter of each of the dependent claims with their independent claim which makes each claim further distinguishable.

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Because the Srinivasan et al. and Quantrille et al. references both fail to disclose, teach or suggest all of the parameters or requirements of Applicants' claims, Applicants respectfully submit that the rejection of presently presented claims 1-2 and 7-36 under 35 U.S.C. § 103(a) should be withdrawn.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

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I, Dorothy Sullivan, hereby certify that on September 08, 2003, this document is being sent by facsimile to the United States Patent and Trademark Office, Technology Center 1700, "Before Final" facsimile machine at 703-872-9310.

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